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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT SEATTLE

7 DANA SYRIA, individually and on  
8 behalf of all others similarly situated,

9 Plaintiff,

10 v.

11 ALLIANCEONE RECEIVABLES  
12 MANAGEMENT, INC.; and  
13 TRANSWORLD SYSTEMS INC.,

14 Defendants.

C17-1139 TSZ

MINUTE ORDER

15 The following Minute Order is made by direction of the Court, the Honorable  
16 Thomas S. Zilly, United States District Judge:

17 (1) The United States Court of Appeals for the Ninth Circuit having denied the  
18 petition for permission to appeal submitted by defendant AllianceOne Receivables  
19 Management, Inc. ("AllianceOne"), see Order (docket no. 40), and more than fourteen  
20 (14) days having since elapsed, the Court hereby LIFTS the stay of this matter that was  
21 imposed by the Minute Order entered October 10, 2017, docket no. 35.

22 (2) Plaintiff's motion to remand, docket no. 18, is DENIED. No dispute exists  
23 that the original complaint filed in August 2015 in King County Superior Court, docket  
no. 5-1, contained no class allegations or basis for jurisdiction under the Class Action  
Fairness Act ("CAFA"), and thus, did not start the 30-day clock for removal. See 28  
U.S.C. § 1446(b)(1). The issue before the Court is what, if anything, triggered the 30-day  
period for removal under 28 U.S.C. § 1446(b)(3), which indicates that, "if the case stated  
by the initial pleading is not removable, a notice of removal may be filed within 30 days  
after receipt by the defendant, through service or otherwise, of a copy of an amended  
pleading, motion, order or other paper from which it may first be ascertained that the case  
is one which is or has become removable." Plaintiff filed an amended complaint  
asserting class allegations on June 13, 2016, but did not plead a specific amount of

1 damages sought. See 1st Am. Compl. (docket nos. 1-1 & 8-1). No contention has been  
2 made that the deadline for removal was 30 days after the amended complaint was filed.  
3 Instead, plaintiff asserts that the 30-day timer began running on either December 19,  
4 2016, when AllianceOne responded to plaintiff's fourth set of requests for production, or  
5 January 23, 2017, when plaintiff served answers to AllianceOne's first set of requests for  
6 admissions, interrogatories, and requests for production.<sup>1</sup> Plaintiff's argument lacks  
7 merit. AllianceOne's discovery responses do not constitute an amended pleading,  
8 motion, order, or other paper that was received by, rather than served by, AllianceOne,  
9 see 28 U.S.C. § 1446(b)(3), and plaintiff's answers to AllianceOne's first set of discovery  
10 requests, Ex. 4 to Notice of Removal (docket no. 1-1), outline only the damages that  
11 plaintiff individually seeks, and not the amount pursued on behalf of the class. Cf.  
12 Jordan v. Nationstar Mortg. LLC, 781 F.3d 1178, 1184 (9th Cir. 2015) (concluding that  
13 case became removable under CAFA only after the plaintiff specified in answers to the  
14 defendant's interrogatories that the total amount in controversy exceeded \$25 million).  
15 In her reply, plaintiff contends that the 30-day clock might also have commenced on  
16 February 16, 2017, when plaintiff's counsel submitted a declaration, docket nos. 11-2 &  
17 30-2, in opposition to AllianceOne's unsuccessful motion for summary judgment.  
18 AllianceOne's motion to strike, docket no. 31, plaintiff's reliance on the February 2017

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11 <sup>1</sup> Plaintiff takes issue with AllianceOne's theory that the 30-day clock for removal was never  
12 triggered, arguing that AllianceOne could have itself ascertained the amount in controversy and  
13 removed the action earlier than July 28, 2017. Plaintiff cites no case, however, to support the  
14 proposition that a defendant's own investigation and/or calculation starts the 30-day removal  
15 period. As explained by the Ninth Circuit:

14 [D]efendants may sometimes be able to delay filing a notice of removal until it is  
15 strategically advantageous to do so. In a non-CAFA diversity case, the advantage  
16 gained through such gamesmanship is limited by the fact that a notice of removal  
17 must be filed, in any event, within one year of the commencement of the action.  
18 However, in a CAFA case, there is no such time limit. A CAFA case may be  
19 removed at any time, provided that neither of the two thirty-day periods under  
20 § 1446(b)(1) and (b)(3) has been triggered. . . . [P]laintiffs are in a position to  
21 protect themselves. If plaintiffs think that their action may be removable and  
22 think, further, that the defendant might delay filing a notice of removal until a  
23 strategically advantageous moment, they need only provide to the defendant a  
document from which removability may be ascertained. Such a document will  
trigger the thirty-day removal period, during which defendant must either file a  
notice of removal or lose the right to remove.

20 Roth v. CHA Hollywood Med. Ctr., L.P., 720 F.3d 1121, 1126 (9th Cir. 2013) (citations omitted);  
21 see Rea v. Michaels Stores Inc., 742 F.3d 1234, 1238 (9th Cir. 2014) ("as long as the complaint  
22 or 'an amended pleading, motion, order or other paper' does not reveal that the case is  
23 removable, the 30-day time period never starts to run and the defendant may remove at any  
time"); see also Goodman v. Wells Fargo Bank, 602 Fed. App'x 681 (9th Cir. 2015) (vacating  
district court's order remanding action to state court).

1 declaration is GRANTED because the argument was improperly raised for the first time  
2 in a reply brief. Moreover, the amount set forth in the February 2017 declaration was  
3 merely \$3,342,806, Anderson Decl. at ¶ 7 (docket nos. 11-2 & 30-2), which is less than  
4 the jurisdictional amount of \$5,000,000, see 28 U.S.C. § 1332(d)(2).<sup>2</sup>

5 (3) Plaintiff's and defendant Transworld Systems Inc.'s motion, docket no. 36,  
6 for reconsideration is DENIED as moot. The stay of this matter having been lifted,  
7 plaintiff and Transworld Systems Inc. may pursue in this forum preliminary approval of,  
8 and other steps toward perfecting, their class-wide settlement.

9 (4) The Clerk is directed to send a copy of this Minute Order to all counsel of  
10 record.

11 Dated this 13th day of December, 2017.

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William M. McCool  
Clerk

s/Karen Dews  
Deputy Clerk

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<sup>2</sup> Plaintiff's reliance on Garcia v. Wal-Mart Stores Inc., 207 F. Supp. 3d 1114 (C.D. Cal. 2016), is misplaced. In Garcia, the district court granted the plaintiffs' motion to remand because the defendant failed to show by a preponderance of the evidence that the amount in controversy met the CAFA threshold. Id. at 1120-26. Plaintiff does not argue that AllianceOne has similarly failed to establish the requisite amount in controversy. The Garcia Court's discussion about the untimeliness of the defendant's removal was merely dicta, see id. at 1126, and the Court declines to adopt its reasoning.